

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1093V

Filed: December 18, 2015

Unpublished

ANTHONY NELSON,

Petitioner,

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;
Influenza ("flu") Vaccine; Shoulder Injury
Related to Vaccine Administration
("SIRVA"); Special Processing Unit
("SPU")

Maximillian Muller, Muller Brazil, LLP, Dresher, PA, for petitioner.

Glenn MacLeod, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On September 29, 2015, Anthony Nelson ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act" or "Program"). Petitioner alleges that he received an influenza ("flu") vaccine on December 4, 2014, and thereafter suffered a left shoulder injury. Petition at 1. The case was assigned to the Special Processing Unit ("SPU") of the Office of Special Masters.

On December 16, 2015, respondent filed a Rule 4(c) report in which she conceded entitlement to compensation. Respondent's Rule 4(c) Report at 1, 4. Specifically, respondent concluded that the preponderance of evidence establishes that the injury to petitioner's left shoulder was caused-in-fact by the administration of the December 4, 2014, flu vaccine, and that petitioner's injury is not due to factors unrelated to the administration of that vaccine. *Id.* at 4. Additionally, respondent stated that the

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

medical evidence reflects that petitioner has suffered the condition for more than six months. *Id.* In light of the foregoing, respondent has concluded that petitioner's left shoulder injury is compensable under the Act as a "caused-in-fact" shoulder injury related to vaccine administration ("SIRVA"). *Id.* at 5.

In view of respondent's concession and the evidence of record, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master